

AMENDED IN ASSEMBLY JUNE 22, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 627

Introduced by Senator Calderon

February 27, 2009

An act to add Section 21610 to the Business and Professions Code, relating to junk.

LEGISLATIVE COUNSEL'S DIGEST

SB 627, as amended, Calderon. Catalytic converters: junk dealers and recyclers.

(1) Existing law prohibits a junk dealer or recycler from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains a photograph or video of the seller and certain other identifying information, as specified, which information is to be retained by the dealer or recycler for 2 years. Existing law requires a junk dealer or recycler to allow for periodic inspection of any premises maintained for purposes of determining compliance with the recordkeeping requirements, and, upon inspection, to produce his or her sales and purchase records.

This bill would require a core recycler, as defined, that accepts catalytic converters to maintain specified information regarding the purchase and sale of the catalytic converters for not less than 2 years. The bill would prohibit a core recycler from providing payment for a catalytic converter unless the payment is made by check, the check is

mailed or provided no earlier than 3 days after the date of sale, unless the seller is a business, and the core recycler obtains a photograph or video of the seller, *a written statement regarding the origin of the catalytic converter*, and certain other identifying information, as specified, ~~which would be required~~. *The bill would except from this requirement a core recycler that buys used catalytic converters, transmissions, or other parts removed from a vehicle if the core recycler and the seller have a written agreement for the transaction. The bill would require information obtained by a core recycler to be retained by the core recycler for 2 years. The bill would require a core recycler to provide this information for inspection by local law enforcement upon demand. The bill would provide that a person who violates these requirements would be guilty of a misdemeanor and would impose specified punishment upon conviction. Because a violation of these requirements is a crime, the bill would impose a state-mandated local program.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21610 is added to the Business and
2 Professions Code, to read:

3 21610. (a) For the purposes of this section, the term “core
4 recycler” means a person or business, including a recycler or junk
5 dealer, that buys used individual catalytic converters, transmissions,
6 or other parts previously removed from a vehicle. A person or
7 business that buys a vehicle that may contain these parts is not a
8 core recycler.

9 (b) A core recycler who accepts a catalytic converter for
10 recycling shall maintain a written record that contains all of the
11 following:

12 (1) The place and date of each sale or purchase of a catalytic
13 converter made in the conduct of his or her business as a core
14 recycler.

1 (2) The name, valid driver's license number, and state of issue,
2 or California-issued identification number, of the seller of the
3 catalytic converter and the vehicle license number, including state
4 of issue of a motor vehicle used in transporting the catalytic
5 converter to the core recycler's place of business. *If the seller is a*
6 *business, the written record shall include the name, address, and*
7 *telephone number of the business.*

8 (3) A description of the catalytic converters purchased or sold,
9 including the item type and quantity, *amount paid for the catalytic*
10 *converter*, and identification number, if any, *and the vehicle*
11 *identification number.*

12 (4) A statement indicating either that the seller of the catalytic
13 converter is the owner of the catalytic converter, or the name of
14 the person from whom he or she has obtained the catalytic
15 converter, including the business, if applicable, as shown on a
16 signed transfer document.

17 (c) A core recycler engaged in the selling or shipping of used
18 catalytic converters to other recyclers or smelters shall retain
19 information on the sale that includes all of the following:

20 (1) The name and address of each person to whom the catalytic
21 converter is sold or disposed of.

22 (2) The quantity of catalytic converters being sold or shipped.

23 (3) The amount that was paid for the catalytic converters sold
24 in the transaction.

25 (4) The date of the transaction.

26 (d) A core recycler shall not provide payment for a catalytic
27 converter unless all of the following requirements are met:

28 (1) The payment is made by check and provided to the seller
29 by either of the following:

30 (A) (i) Except as provided in clause (ii), mailed to the seller at
31 the address provided pursuant to paragraph (3).

32 (ii) For a seller that is a business, mailed to the seller's business
33 address.

34 (B) (i) Except as provided in clause (ii), collected by the seller
35 from the recycler on the third business day after the date of sale.

36 (ii) A seller that is a business may receive immediate payment.
37 *A seller that is a business that has a contract with a core recycler*
38 *or a seller that is a licensed auto dismantler may receive immediate*
39 *payment by check or by debit card or credit card.*

1 (2) At the time of sale, the core recycler obtains a clear
2 photograph or video of the seller.

3 (3) (A) Except as provided in subparagraph (B), the core
4 recycler obtains a copy of the valid driver's license of the seller
5 or the seller's agent containing a photograph and an address of the
6 seller or the seller's agent, or a copy of a state or federal
7 government issued identification card containing a photograph
8 and an address of the seller or the seller's agent.

9 (B) If the seller prefers to have the check for the catalytic
10 converter mailed to an alternative address, other than a post office
11 box, the core recycler shall obtain a copy of a driver's license or
12 identification card described in subparagraph (A) and a gas or
13 electric utility bill addressed to the seller at the alternative address
14 with a payment due date no more than two months prior to the
15 date of sale. For the purpose of this subparagraph, "alternative
16 address" means an address that is different from the address
17 appearing on the seller's driver's license or identification card.

18 (4) The core recycler obtains a clear photograph or video of the
19 catalytic converter being sold.

20 (5) *At the time of sale, the core recycler obtains a written*
21 *statement from the seller indicating how the seller obtained the*
22 *catalytic converter.*

23 *(e) The requirements of subdivision (d) shall not apply to a core*
24 *recycler that buys used catalytic converters, transmissions, or*
25 *other parts removed from a vehicle if the core recycler and the*
26 *seller have a written agreement for the transaction.*

27 ~~(e)~~

28 (f) A core recycler shall keep and maintain the information
29 required pursuant to this section for not less than two years.

30 ~~(f)~~

31 (g) A core recycler shall make the information required pursuant
32 to this section available for inspection by local law enforcement
33 upon demand.

34 ~~(g)~~

35 (h) A person who makes, or causes to be made, a false or
36 fictitious statement regarding any information required pursuant
37 to this section is guilty of a misdemeanor.

38 ~~(h)~~

39 (i) A person who violates the requirements of this section is
40 guilty of a misdemeanor.

1 (†)

2 (j) Upon conviction, a person who knowingly and willfully
3 violates the requirements of this section shall be punished as
4 follows:

5 (1) For a first conviction, by a fine of one thousand dollars
6 (\$1,000).

7 (2) (A) For a second conviction, by a fine of not less than two
8 thousand dollars (\$2,000).

9 (B) In addition to the fine imposed pursuant to subparagraph
10 (A), the court may order the defendant to cease engaging in the
11 business of a core recycler for a period not to exceed 30 days.

12 (3) (A) For a third and subsequent conviction, by a fine of not
13 less than four thousand dollars (\$4,000).

14 (B) In addition to the fine imposed pursuant to subparagraph
15 (A), the court shall order the defendant to cease engaging in the
16 business of a core recycler for a period not less than one year.

17 (k) *The provisions of this section apply to core recyclers and*
18 *do not apply to a subsequent purchaser of a catalytic converter*
19 *who is not a core recycler.*

20 SEC. 2. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.